

CHAPTER 79
FORMERLY
SENATE BILL NO. 1

AN ACT TO AMEND TITLE 4, TITLE 7, TITLE 10, TITLE 11, TITLE 14, TITLE 16, TITLE 18, TITLE 19, TITLE 21, TITLE 24, TITLE 25, TITLE 28, TITLE 29, TITLE 30, AND TITLE 31 OF THE DELAWARE CODE RELATING TO TECHNICAL CORRECTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fourths of all members elected to each house thereof concurring therein):

Section 1. Amend § 554, Title 4 of the Delaware as follows:

§ 554. License fees.

(i) For a license to sell alcoholic liquors at gatherings of persons, the license fee shall be as follows:

(1) For a group-type gathering license, the license fee shall be \$5.00 for each such license granted, unless the said license shall be for a period of more than 2 days in which case the license fee shall be \$5.00 plus the additional sum of \$2.00 for each such additional day or unless the said license shall be for a Sunday, Thanksgiving, Christmas, or Easter, in which case the license fee shall be an additional \$5.00 for each such day.

(2) Biennial license. —

a. For a biennial premises type gathering license for a facility in which not more than 25 gatherings of persons at which alcoholic liquors are to be sold are to be held, the biennial license fee shall be \$200.

b. For a biennial premises type gathering license for a facility in which more than 25 but not more than 75 such gatherings of persons are to be held, the biennial license fee shall be \$400.

c. For a biennial premises type gathering license for a facility in which more than 75 such gatherings of persons are to be held, the biennial license fee shall be \$1,000.

d. For the holder of a biennial premises type gathering license to sell alcoholic liquor on a Sunday, Thanksgiving, Christmas, or Easter, the biennial license fee shall be:

Section 2. Amend § 6058, Title 7 of the Delaware Code as follows:

§ 6058. Establishment, composition and responsibility of the Recycling Public Advisory Council.

(a) There is hereby established a Recycling Public Advisory Council (the "Council"). The Council shall be composed of 16 members who shall be appointed by the Governor as follows:

(1) One member from the Department;

(2) One member from the Authority;

(3) One member representing county governments, with such member being recommended by the Delaware Association of Counties;

(4) One member representing municipal governments, with such member being recommended by the Delaware League of Local Governments;

(5) One member representing the recycling industry;

(6) One member representing the waste hauling industry;

(7) Two members, 1 representing the soft drink industry and 1 representing the alcohol beverage industry;

Section 3. Amend § 7402A, Title 7 of the Delaware Code as follows:

§ 7402A. Definitions.

The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(17) "Owner" means a person:

a. Who has or has had a legal interest in a facility or aboveground storage tank; or

b. Who has or has had an equitable interest in a facility or aboveground storage tank.

c. "Owner" does not mean any person who, without participating in the management of a facility or aboveground storage tank, holds indicia of ownership in a facility or aboveground storage tank primarily to protect the person's security interest or is a fiduciary which has a legal title to or manages any property for purposes of administering an estate or trust of which such property is part. In the case of foreclosure the person shall not be deemed the owner of the aboveground storage tank provided that the person provides notification to the Department within 30 days of the initiation of foreclosure proceedings for any property containing an aboveground storage tank, either in-service or out-of-service utilizing a form provided by the Department.

d. Participation in management.

1. For purposes of this paragraph (17), the term "participate in management":

g. The exclusion from liability contained in paragraph (17)c. of this section does not limit liability pertaining to the release or threatened release of a regulated substance if negligence of a fiduciary causes or contributes to the release or threatened release.

h. Nothing contained in paragraph (17)c. of this section:

1. Affects the rights or immunities or other defenses that are available under this chapter or other law that is applicable to a person subject to this paragraph; or

2. Creates any liability for a person or a private right of action against a fiduciary or any other person.

i. Nothing in paragraph (17)c. of this section applies to a person if the person:

1. Acts in a capacity other than that of a fiduciary or in a beneficiary capacity, and in that capacity, directly or indirectly benefits from a trust or fiduciary relationship; or

2. Is a beneficiary and a fiduciary with respect to the same fiduciary estate and, as a fiduciary, receives benefits that exceed customary or reasonable compensation, and incidental benefits, permitted under other applicable law.

j. Paragraph (17)c. of this section does not preclude a claim under this chapter against:

1. The assets of the estate or trust administered by the fiduciary; or

2. Nonemployee agent or independent contractor retained by a fiduciary.

Section 4. Amend § 901, Title 10 of the Delaware Code as follows:

§ 901. Definitions.

For the purpose of this chapter, unless the context indicates differently:

(3) "Care, custody and control" or "those responsible for care, custody and control" shall mean a person or persons in a position of trust, authority, supervision or control over a child. It may include:

a. A parent, guardian, or custodian;

b. Other members of the child's family or household, meaning persons living together permanently or temporarily without regard to whether they are related to each other and without regard to the length of time or continuity of such residence, and it may include persons who previously lived in the household such as paramours of a member of the child's household;

c. Any person who, regardless of whether a member of the child's household, is defined as family or relatives in this section or as an adult individual defined in § 351 of Title 31;

(14) "Intrafamilial child abuse or neglect" is any child abuse or neglect committed by:

a. A parent, guardian, or custodian;

b. Other members of the child's family or household, meaning persons living together permanently or temporarily without regard to whether they are related to each other and without regard to the length of time or continuity of such residence, and it may include persons who previously lived in the household such as paramours of a member of the child's household;

c. Any person who, regardless of whether a member of the child's household, is defined as family or a relative in this section or as an adult individual as defined in § 351 of Title 31.

Section 5. Amend § 4319, Title 10 of the Delaware Code as follows:

§ 4319. Confidential communications involving first responders.

(d) Exceptions. — The privileges established under subsections (b) and (c) of this section are not applicable if:

(1) The communication indicates an intent to engage in conduct likely to result in imminent death or serious physical injury to the first responder who received critical incident stress management services or another individual;

(2) The first responder who obtained critical incident stress management services expressly waives the privilege or gives consent to disclosure of the privileged communication;

(3) The first responder who obtained critical incident stress management services is deceased and the surviving spouse or the executor or administrator of the estate of the deceased first responder expressly waives the privilege or gives consent to disclosure of the privileged communications; or

(4) The first responder who received critical incident stress management services sought or obtained the services to enable or aid anyone to commit or plan to commit what the first responder who received critical incident stress management services knew, or reasonably should have known, was a crime or fraud or mental or

physical injury to the first responder who received critical incident stress management services or another individual.

Section 6. Amend § 4916, Title 10 of the Delaware Code as follows:

§ 4916. Exemption of Delaware College Investment Plan Accounts and Delaware Achieving a Better Life Experience Accounts.

(a) In addition to the exemptions provided in §§ 4902 and 4903 of this title, there shall be exempt from execution or attachment process assets held in and proceeds payable under or from any account established under the Delaware College Investment Plan pursuant to subchapter XII of Chapter 34 of Title 14 (a "Plan Account") or any account established under the Delaware Achieving a Better Life Experience Program pursuant to Chapter 96A of Title 16 (an "ABLE Account"). This exemption shall only apply to such amount as does not exceed the total contributions permitted under § 529(b)(6) of the Internal Revenue Code [26 U.S.C. § 529(b)(6)] with respect to any Plan Account or ABLE Account.

(b) This section shall not exempt from execution or attachment assets contributed by a debtor to any Plan Account or ABLE Account within 365 days to the extent that such assets contributed within said 365 days exceed the greater of:

(1) \$5,000; or

(2) The average annual contribution made by such debtor to such Plan Account or ABLE Account for the 2 calendar years preceding the date of the filing of such execution or attachment or the filing of such petition.

(c) This section shall not exempt from execution or attachment any judgment obtained under Chapter 5 of Title 13 or § 554 of Title 30. If any portion of this section is held invalid or is preempted by federal law, in whole or in part, the remaining portions shall remain in effect to the maximum extent permitted by law.

(d) In the case of a Plan Account or ABLE Account owned by a trust, nothing in this section may be construed to limit the protections afforded to trusts by § 3536 of Title 12.

Section 7. Amend § 8142, Title 10 of the Delaware Code as follows:

§ 8142. Limitations on shooting range and hunting operations nuisance suits.

(a) For the purposes of this section, the terms "shooting range" and "hunting operations" and "its appurtenances" mean an operation including any of the following:

(1) Lands, including the buildings and improvements thereon, which are used or which are intended for use for the shooting of targets for training, education, practice, recreation or competition;

(2) Lands, including the buildings and improvements thereon, which are used or which are intended for use as a hunting club, hunting preserve, shooting preserve, or a restricted propagating and shooting preserve as provided for in subchapter V of Chapter 5 of Title 7;

Section 8. Amend § 406, Title 11 of the Delaware Code as follows:

§ 406. Transfer of convicted persons becoming mentally disabled from prison to Delaware Psychiatric Center; appointment of physicians to conduct inquiry; expenses of transfer.

(b) The expenses of the removal of such a person with a mental illness and of admission into such Psychiatric Center and maintenance therein up and until the time the person is discharged by the Court shall be borne by the State. If any such person with a mental illness has any real or personal estate, the Department of Health and Social Services shall have for the expenses and charges so incurred the same remedy as is provided in § 5019 of Title 16.

Section 9. Amend § 1102, Title 11 of the Delaware Code as follows:

§ 1102. Endangering the welfare of a child; class A misdemeanor; class E or G felony.

(a) A person is guilty of endangering the welfare of a child when:

(1) Being a parent, guardian or any other person who has assumed responsibility for the care or supervision of a child the person:

a. Intentionally, knowingly or recklessly acts in a manner likely to be injurious to the physical, mental or moral welfare of the child; or

b. Intentionally, knowingly or recklessly does or fails to do any act, including failing to report a missing child, with the result that the child becomes a neglected or abused child; or

(2) The person knowingly contributes to the delinquency of any child less than 18 years old by doing or failing to do any act with the result, alone or in conjunction with other acts or circumstances, that the child becomes a delinquent child; or

(3) The person knowingly encourages, aids, abets or conspires with the child to run away from the home of the child's parents, guardian or custodian; or the person knowingly and illegally harbors a child who has run away from home; or

(4) The person commits any violent felony, or reckless endangering second degree, assault third degree, terroristic threatening, unlawful imprisonment second degree, or child abuse third degree against a victim, knowing that such felony or misdemeanor was witnessed, either by sight or sound, by a child less than 18 years of age who is a member of the person's family or the victim's family; or

(5) The person commits the offense of driving under the influence as set forth in § 4177 of Title 21, or the offense of operating a vessel or boat under the influence as set forth in § 2302 of Title 23, and during the commission of the offense knowingly permits a child less than 18 years of age to be a passenger in or on such vehicle, vessel or boat; or

(6) The person commits any offense set forth in Chapter 47 of Title 16 in any dwelling, knowing that any child less than 18 years of age is present in the dwelling at the time; or

(7) The person provides or permits a child to consume or inhale any substance not prescribed to the child by a physician, as defined in §§ 4714, 4716, 4718, 4720, and 4722 of Title 16.

Section 10. Amend § 1258, Title 11 of the Delaware Code as follows:

§ 1258. Escape and offenses relating to custody; definitions.

As used in §§ 1251-1257 of this title:

(1) "Contraband" means any intoxicating liquor or drug prohibited under Chapter 47 of Title 16, except as prescribed by a physician for medical treatment; tobacco; nicotine products; any money without the knowledge or consent of the Department of Health and Social Services or the Department of Correction; or any deadly weapon or part thereof or any instrument or article which may be used to effect an escape.

Section 11. Amend § 1335, Title 11 of the Delaware Code as follows:

§ 1335. Violation of privacy; class A misdemeanor; class G felony.

e. In addition to when the consent of the person depicted is given, the introductory paragraph of this paragraph (a)(9) and paragraph (a)(9)b. of this section do not apply to any of the following:

1. When the visual depiction is of an individual less than 18 years of age and does not violate § 1108, § 1109, or § 1111 of this title, or any similar provision of this title, and the reproduction, distribution, exhibition, publication, transmission, or other dissemination is not for commercial purposes.

2. When the visual depiction is reproduced, distributed, exhibited, published, transmitted, or otherwise disseminated in the course of lawful and common practices of a law-enforcement officer, the reporting of unlawful conduct, legal proceedings, or medical treatment procedures.

Section 12. Amend § 1367, Title 11 of the Delaware Code as follows:

§ 1367. Unauthorized promotion of boxing, mixed martial arts or of a combative sports or combative sports entertainment or combative fighting match, contest, or event; class A misdemeanor.

(a) A person is guilty of the unauthorized promotion of boxing, mixed martial arts or of a combative sports or combative sports entertainment or combative fighting match, contest, or event if the person promotes, arranges, advertises, or conducts a combative sports entertainment or combative fighting match, contest, or event in violation of Chapter 1 of Title 28.

(b) A charge of the unauthorized promotion of boxing, mixed martial arts or of a combative sports or combative sports entertainment or combative fighting match, contest, or event shall not exclude prosecution for other offenses or violations of this Code.

(c) The unauthorized promotion of boxing, mixed martial arts or of a combative sports or combative sports entertainment or combative fighting match, contest, or event is a class A misdemeanor.

Section 13. Amend § 1368, Title 11 of the Delaware Code as follows:

§ 1368. Unauthorized participation in a boxing, mixed martial arts or in a combative sports or combative sports entertainment or combative fighting match, contest, or event; class A misdemeanor.

(a) A person is guilty of the unauthorized participation in a boxing, mixed martial arts or in a combative sports or combative sports entertainment or combative fighting match, contest, or event if the person participates as a competitor in a boxing, mixed martial arts or in a combative sports entertainment or combative fighting match, contest, or event in violation of Chapter 1 of Title 28.

(b) A charge of the unauthorized participation in a boxing, mixed martial arts or in a combative sports or combative sports entertainment or combative fighting match, contest, or event shall not exclude prosecution for other offenses or violations this Code.

(c) The unauthorized participation in a boxing, mixed martial arts or in a combative sports or combative sports entertainment or combative fighting match, contest, or event is a class A misdemeanor.

Section 14. Amend § 1448B, Title 11 of the Delaware Code as follows:

§ 1448B. Criminal history record checks for sales of firearms — Unlicensed persons.

(c) The provisions of this section shall not apply to:

(5) Transactions in which the potential purchaser or transferee is a qualified law-enforcement officer, as defined in § 1441A of this title, or a qualified retired law-enforcement officer, as defined in § 1441B of this title;

Section 15. Amend § 4123, Title 11 of the Delaware as follows:

§ 4123. Juveniles adjudicated delinquent of sex offenses.

(c) Following receipt by Family Court and the parties of the comprehensive evaluation, risk assessment and treatment recommendations required by subsection (b) of this section, Family Court shall conduct a sentencing hearing in which the Court shall address appropriate treatment for the juvenile, and the registration and community notification requirements for the juvenile as follows:

(1) If the juvenile was at least 14 years old on the date of the sex offense, and was adjudicated delinquent of any of the offenses enumerated in § 770(a)(3)a. of this title where "without the victim's consent" has the definition specified in § 761(j) of this title, §§ 771-778, § 780, § 783 or § 783A of this title if the purpose of the crime was to violate or abuse the victim sexually, § 787(b)(3) and (4), or § 1100A of this title, or if the victim of the felony level offense was 5 years old or younger, or of conspiracy, under §§ 512 and 513 of this title, or attempt, under § 531 of this title, to commit any of those enumerated offenses, the juvenile shall be immediately registered as a sex offender as prescribed by § 4120 of this title, and the community shall be provided notification as prescribed by § 4121 of this title. The Family Court shall have no discretion to modify these registration or community notification requirements.

Section 16. Amend § 8564, Title 11 of the Delaware Code as follows:

§ 8564. Adult Abuse Registry check.

(a) Definitions. — As used in this section:

(9) "Nursing facility" and "similar facility" means any facility required to be licensed under Chapter 11 of Title 16. This includes, but is not limited to, facilities commonly called nursing homes, assisted living facilities, intermediate care facilities for persons with intellectual disabilities, neighborhood group homes, family care homes and rest residential care facilities. Also included are the Stockley Center, the Delaware Psychiatric Center, and hospitals as defined by § 5001 of Title 16.

Section 17. Amend § 511, Title 14 of the Delaware Code as follows:

§ 511. Approval procedure [For application of this section to the City of Wilmington, see 80 Del. Laws, c. 17, § 2]

(r) Charter school board members and founders shall be required to complete the criminal background checks in the same manner as persons seeking employment with a public school pursuant to § 309 of Title 31. In addition, the authorizer shall complete a check of the Child Protection Registry established by § 921 of Title 16 for charter school founders and board members. The results of said background and Child Protection Registry checks shall be provided to the authorizer for review as part of the application process and on an ongoing basis if new board members are seated or current board members are convicted of a crime or placed on the Child Protection Registry. Any person convicted of a felony offense or of any crime against a child in this State or any other jurisdiction shall not be permitted to serve as a founder or member of a charter school board of directors. No individual shall be permitted to serve as a charter school founder or board member if the individual would not be permitted to be employed in a public school pursuant to § 309 of Title 31 regarding the Child Protection Registry. Other crimes may be considered disqualifying, in the discretion of the authorizer. The State Bureau of Identification may release any subsequent criminal history to the authorizer. Individuals currently serving as board members of a charter school must complete a criminal background check and the Department shall complete a Child Protection Registry check for such members on or before February 1, 2012.

Section 18. Amend § 1082, Title 14 of the Delaware Code as follows:

§ 1082. Procedure at the polling place.

(d) If a person's eligibility to vote is challenged by anyone for any reason, the inspector and both judges shall immediately hear and consider the evidence and then by majority vote decide whether or not the person is eligible to vote. Once the inspector and both judges have made their decision, there is no appeal at the polling place. The person shall either be permitted to vote, or shall not be permitted to vote and directed to depart the polling place. A person who has not been permitted to vote may appeal the decision of the inspector and both judges to the county director or, in the county director's absence, to the deputy county director for the Department of Elections conducting the election.

(e) Upon hearing the evidence of an appeal by a voter, the county director or deputy county director for the Department of Elections conducting the election shall rule on the appeal. A person whose appeal is successful shall be permitted to vote at the polling place or by absentee ballot at the Department of Elections conducting the election.

Section 19. Amend § 1331, Title 14 of the Delaware Code as follows:

§ 1331. Statewide Programs for the Deaf, Hard of Hearing and Deaf-Blind including the Delaware School for the Deaf; special staff.

(d) In addition to staff otherwise authorized, the Statewide Programs for the Deaf, Hard of Hearing and Deaf-Blind may employ the following:

(6) Speech therapist;

Section 20. Amend § 2410, Title 14 of the Delaware Code as follows:

§ 2410. Hiring of prison employees.

(b) The Department of Education shall provide names of all selected new employees to the Department of Correction a minimum of 15 working days before the starting date of a scheduled Department of Correction training program set forth in § 2405 of this title. The Department of Correction shall provide the date of any Department of Correction Training Program (CEIT) in sufficient time to allow for the selection of new employees prior to the upcoming training.

Section 21. Amend § 804A, Title 16 of the Delaware Code as follows:

§ 804A. Newborn and infant hearing screening programs.

(a) As a condition of its licensure, each hospital shall establish a Universal Newborn Hearing Screening (UNHS) program. Each UNHS program shall:

(3) Provide for appropriate training and monitoring of the performance of individuals responsible for performing hearing screening tests. These individuals shall be trained properly in:

- a. The performance of the tests required by this chapter;
- b. The risks of the tests, including psychological stress for the parent or parents;
- c. Infection control practices; and
- d. The general care and handling of newborns and infants in hospital settings.

(4) Perform the hearing testing prior to the newborn's discharge; if the newborn is expected to remain in the hospital for a prolonged period, testing shall be performed prior to the date on which the child attains the age of 3 months.

Section 22. Amend § 5003, Title 16 of the Delaware Code as follows:

§ 5003. Voluntary admission procedure.

(f) If any applicant is under the age of 18 years old, the following provisions shall apply:

(3) Voluntary outpatient treatment. — A person between 14 and 18 years of age, who is in need of mental health treatment, may request voluntary outpatient treatment from a licensed treatment facility or community provider. If the individual in need of treatment is a minor under 14 years of age, a parent, legal custodian, or legal guardian shall make the request for voluntary outpatient mental health treatment and give written consent for treatment.

a. If a minor is 14 years of age or over, then either the minor, or a parent, legal custodian, or legal guardian may give written consent to a licensed treatment facility or community provider for voluntary, outpatient treatment.

Section 23. Amend § 5121, Title 16 of the Delaware Code as follows:

§ 5121. [Repealed.]

Section 24. Amend § 5121A, Title 16 of the Delaware Code as follows:

§ 5121A. [Repealed.]

Section 25. Amend § 5123, Title 16 of the Delaware Code as follows:

§ 5123. [Repealed.]

Section 26. Amend § 5154, Title 16 of the Delaware Code as follows:

§ 5154. Liability for cost of maintenance and care.

The expenses of the removal of an adult with a criminally mental condition or a criminally inclined juvenile and of the adult's or juvenile's admission to a hospital under this subchapter, and the charges and expense for the maintenance and care at such hospital shall be paid by the institution which had charge of such case. Where such persons are committed by the proper courts otherwise than from an institution of the State, the State Treasurer shall pay such hospital for such removal, admission, maintenance and care. If any such adult with a criminally mental condition or criminally inclined juvenile has any real or personal estate, the Department of Health and Social Services or the Department of Services for Children, Youth and Their Families shall have, for the expenses and charges incurred, the same remedy as is provided in § 5019 of this title.

Section 27. Amend § 5161, Title 16 of the Delaware Code as follows:

§ 5161. Rights of patients in mental health hospitals or residential centers.

(a) As used in this section:

(1) "Department " means the Department of Health and Social Services, except that Department means the Department of Services for Children, Youth and Their Families for facilities certified under §§ 5025(a) and 5001(9) of this title.

(b) Any hospital or residential center that admits persons pursuant to Chapter 50, 51, or 55 of this title shall prominently post in English and Spanish the list of patients rights set forth in this subsection. In addition to the posting, the Department shall distribute a copy of the list to each patient and to other persons, as provided in Department regulations. Each patient shall have the rights listed below, which shall be liberally construed to fulfill their beneficial purposes. Furthermore, in defining the scope or extent of any duty imposed by this section, higher or more comprehensive obligations established by otherwise applicable federal, state, or local enactments as well as certification standards of accrediting agencies may be considered.

(10) A patient's right to retain reasonable personal belongings shall be respected, except that the facility may temporarily retain custody of a patient's personal property for the patient's protection; provided, that such property is used or conserved for the support of the patient. The patient is entitled to a receipt for any personal property over which the facility retains temporary custody. Nothing in this paragraph shall be construed to relieve any patient from the obligations arising out of § 5019 of this title.

Section 28. Amend § 5174, Title 16 of the Delaware Code as follows and renumbering accordingly:

§ 5174. Patient participation restricted.

The following patients shall be ineligible to participate in pharmaceutical research:

(1) Any patient who has been placed in the jurisdiction of the hospital under Chapter 4 of Title 11 or § 5153 of this title; provided, however, that a patient placed in the jurisdiction of the hospital under Chapter 4 of Title 11 or § 5153 of this title shall be eligible with the prior approval of Superior Court, upon affidavit filed by the medical director of the hospital. Such affidavit shall state that the patient for whom eligibility to participate is sought has given the patient's informed consent and that, with respect to that patient, all provisions of this subchapter have been and will continue to be complied with. The Court may deny approval for failure to

comply with any provision of this subchapter or for any other reason it deems appropriate. Any affidavit filed pursuant to this subdivision shall be served upon the Attorney General, and no action shall be taken by the Court for 10 days after the date of such service. Superior Court may by rule prescribe procedures for review of affidavits filed pursuant to this subdivision.

(2) Any patient who has been placed in the jurisdiction of the hospital under Chapter 50 of this title; provided, however, that a patient initially committed under Chapter 50 of this title shall be eligible if that patient has voluntarily applied for and has been accepted for hospitalization pursuant to § 5003 of this title.

(4) Any patient who has been placed in the jurisdiction of the hospital under Chapter 57 of this title.

Section 29. Amend § 2607, Title 18 of the Delaware Code as follows:

§ 2607. Membership in advisory organization.

The advisory organization shall file a rating plan with the Department of Insurance not later than 90 days after the adoption of a health-care payment system provided for by § 2322B of Title 19 and shall also file a rating plan not later than 90 days after the adoption of health-care practice guidelines provided for by § 2322C(7) of Title 19. Thereafter, the advisory organization shall file a rating plan at least annually. Within 60 days of each such rating plan becoming effective pursuant to this chapter, each authorized insurer shall make a rate filing pursuant to § 2609 of this title.

Section 30. Amend § 3571M, Title 18 of the Delaware Code as follows:

§ 3571M. Comprehensive health insurance coverage [For application of this section, see 79 Del. Laws, c. 99, § 19]

(d) Dental only. — This section shall not apply to a plan described in § 1311(d)(2)(B)(ii) of the Patient Protection and Affordable Care Act.

Section 31. Amend § 3610, Title 18 of the Delaware Code as follows:

§ 3610. Comprehensive health insurance coverage [For application of this section, see 79 Del. Laws, c. 99, § 19]

(d) Dental only. — This section shall not apply to a plan described in § 1311(d)(2)(B)(ii) of the Patient Protection and Affordable Care Act.

Section 32. Amend § 4004, Title 18 of the Delaware Code as follows:

§ 4004. Definitions.

As used in this chapter:

(1) "Department" means the Delaware Department of Health and Social Services.

(2) "Health insurer" includes all of the following:

a. An insurer providing insurance of human beings against bodily injury, disablement or death by accident or accidental means, or the expense thereof, or against disablement or expense resulting from sickness, and every insurance appertaining thereto.

b. A health service corporation.

c. A health maintenance organization.

d. A group health plan, as defined in § 607(1) of the federal Employee Retirement Income Security Act of 1974 [29 U.S.C. § 1167(1)].

e. Any entity offering a service benefit plan.

f. A self-funded entity or group providing health-care coverage.

g. A pharmacy benefit manager.

h. Any other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health-care item or service.

i. Any person or other entity which provides coverage in this State for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement, or otherwise.

Section 33. Amend § 2379, Title 19 of the Delaware Code as follows:

§ 2379. Workplace safety program.

(f) Inspections and cost. —

(4) Beginning on September 1, 2013, each workplace safety inspection conducted pursuant to paragraph (f)(1) or (3) shall include a determination as to whether the employer has complied with its obligations under § 2322E(d) of this title to provide a list of possible modified-duty jobs assignments for injured workers. Failure to comply with the requirements of § 2322E(d) of this title shall disqualify an employer from receiving the workplace safety credit. The period of review shall extend back to July 1, 2013, and beginning on July 1, 2016, shall be limited to a period of 3 years prior to the date of application for the workplace safety credit.

Section 34. Amend § 2603, Title 21 of the Delaware Code as follows:

§ 2603 Definitions.

Notwithstanding any other provision of this title, the following definitions apply to this chapter:

(4) "CDL downgrade" means either:

a. Except where otherwise provided in this title, the Division allows the driver to change his or her self-certification to interstate but operating exclusively in transportation or operation excepted from 49 C.F.R. Part 391, as provided in § 390.3(f), § 391.2, § 391.68, or § 398.3;

b. The Division allows the driver to change his or her self-certification to intrastate only if the driver is physically qualified for intrastate-only driving under § 4704(b) of this title;

c. The Division allows the driver to change his or her certification to intrastate but operating exclusively in transportation or operations excepted under § 4704(c)(1) or (2) of this title driver physical qualification requirements; or

d. The Division removes the CDL privilege from the driver license.

Section 35. Amend § 2713, Title 21 of the Delaware Code as follows:

§ 2713. Examination of applicants; waiver of examination.

(a) The Department shall examine every applicant for an operator's license before issuing any such license, except as otherwise provided in subsections (b) and (c) of this section. The Department shall examine the applicant as to the applicant's physical and mental abilities to operate a motor vehicle in such manner as not to jeopardize the safety of persons or property and as to whether any facts exist which would bar the issuance of a license under this chapter. Such examination shall not include investigation of any facts other than those directly pertaining to the ability of the applicant to operate a motor vehicle with safety, or other than those facts declared to be prerequisite to the issuance of a license under this chapter.

Section 36. Amend § 4502(c), Title 21 of the Delaware Code as follows:

§ 4502. Size and weight of vehicles except on interstate highways and United States numbered routes.

(9) Farm operations. — Notwithstanding the other provisions of this section, the following applies to vehicles registered as (i) farm trucks or (ii) registered commercial motor vehicles that are controlled or operated by a farmer and while used in the operation of a farm. For these vehicles, no single axle load shall exceed 22,400 pounds, and with respect to any vehicle equipped with coupled axles spaced less than 48 inches apart measured horizontally between their center lines, the combined weight on the coupled axles shall not exceed 20,000 pounds and, with respect to a vehicle equipped with coupled axles spaced 48 inches or more apart measured horizontally between their center lines, the combined weight on the coupled axle shall not exceed 40,000 pounds. Furthermore, any farm loaded truck or farm vehicle carrying harvested products or livestock may exceed the weight limits established under this subsection by no more than 3 percent.

Section 37. Amend § 1101, Title 24 of the Delaware Code as follows:

§ 1101. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them under this section except where the context clearly indicates a different meaning:

(1) "Academic license" means a license issued under § 1132A of this title to a full-time director, chairperson, or attending faculty member of a hospital based dental, oral and maxillofacial surgery or other specialty dental residency program for the purposes of teaching.

Section 38. Amend Chapter 11, Title 24 of the Delaware Code as follows:

§ 1196. [Repealed.]

§ 1197. [Repealed.]

§ 1198. [Repealed.]

§ 1199. [Repealed].

§ 1199A. [Repealed].

Section 39. Amend § 2602, Title 24 of the Delaware Code as follows:

§ 2602. Definitions.

As used in this chapter, unless the content requires otherwise, the following words shall have the following meanings:

(10)a. "Practice of physical therapy" means:

b. Nothing in this chapter shall be construed to limit the practice of physical therapy by physical therapists as is currently being practiced or determined by the Board so long as such practice does not include surgery or the medical diagnosis of disease. Advanced services may require advanced training, as determined by the Board's rules and regulations, to assure the licensee meets the accepted standard of care.

Section 40. Amend § 5304, Title 24 of the Delaware Code as follows:

§ 5304. Organization; meetings; officers; quorum.

(c) A majority of the members shall constitute a quorum for the purpose of transacting business. The affirmative vote of at least 4 members of the Board is required to certify and license applicants or to discipline a certificate holder or licensee. All other actions will be by simple majority vote.

Section 41. Amend § 81-323, Title 25 of the Delaware Code as follows:

§ 81-323. Removal of members of executive board.

Notwithstanding any provision of the declaration or bylaws to the contrary, the unit owners, by a two-thirds vote of all persons present, in person, by proxy or by ballot, and entitled to vote at any meeting of the unit owners at which a quorum is present, may remove any member of the executive board with or without cause, except that: (i) a member appointed by the declarant may not be removed by a unit owner vote during the period of declarant control, and (ii) a person appointed under § 81-303(f) of this title may only be removed by the person that appointed that member:

Section 42. Amend § 929, Title 28 of the Delaware Code as follows:

§ 929. Definitions.

The following words, terms and phrases, when used in this subchapter, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

(2) "Entertainment event" shall mean any form of circus or carnival, stage play, variety show, concert, magic, puppet or mime show, pageant, musical or similar type of public entertainment program other than combative sports, wrestling, racing and outdoor music festivals.

Section 43. Amend § 5502, Title 29 of the Delaware as follows:

§ 5502. Employment of pensioners.

(a) An individual shall not receive a service or disability pension under this chapter for any month during which the individual is an employee unless the individual is:

- (1) An official elected by popular vote at a regular state election;
- (2) An official appointed by the Governor;
- (3) A temporary, casual, seasonal or substitute employee as defined by the Board of Pension Trustees;
- (4) A substitute teacher employed by a school district in the State;
- (5) A temporary justice of the peace appointed pursuant to § 9211 of Title 10; or
- (6) A per diem employee of the General Assembly.

Section 44. Amend § 8059, Title 29 of the Delaware Code as follows:

§ 8059. Sustainable Energy Utility.

(d) SEU Oversight Board. —

(3) Board members shall serve without compensation.

Section 45. Amend § 8735, Title 29 of the Delaware Code as follows:

§ 8735. Division of Professional Regulation [Effective Jan. 1, 2017]

(b) The Division of Professional Regulation shall have the powers, duties and functions related to the regulation of amateur and professional boxing, combative sports, and combative sports entertainment as set forth in Chapter 1 of Title 28.

Section 46. Amend § 6502, Title 30 of the Delaware Code as follows:

§ 6502. Quality assessment.

(b) The quality assessment fees for each non-Medicare resident day shall:

(1) For assessment periods ending prior to June 1, 2013, not exceed:

a. \$14 per non-Medicare resident day for each nursing facility that is described in paragraph (d)(2) of this section; and

b. \$16 per non-Medicare resident day for all other nursing facilities subject to the quality assessment; and

(2) For assessment periods beginning on and after June 1, 2013, be in amounts determined by the Secretaries of the Department of Finance and the Department of Health and Social Services on an annual basis, not later than May 1, which amounts shall not exceed:

a. \$14 per non-Medicare resident day for each nursing facility that is described in paragraph (d)(2) of this section; and

b. \$26 per non-Medicare resident day for all other nursing facilities subject to the quality assessment.

(3) For assessment periods beginning on or after June 1, 2016, be in amounts determined by the Secretaries of the Department of Finance and the Department of Health and Social Services on an annual basis, not later than May 1, which amounts shall not exceed:

a. \$19 per non-Medicare resident day for each nursing facility that is described in paragraph (d)(2) of this section; and

b. \$35 per non-Medicare resident day for all other nursing facilities subject to the quality assessment.

(4) The rates in this section can be modified if required by the Centers for Medicare and Medicaid to meet the redistribution test of 42 C.F.R. § 433.68(e)(2);

(5) The quality assessment fees in the aggregate for all facilities assessed will not exceed the maximum allowed under federal law.

Section 47. Amend § 2824, Title 31 of the Delaware Code as follows:

§ 2824. Recording anatomical gift data.

(a) The Delaware Hospital for the Chronically Ill shall, if possible, ascertain from a patient upon admission whether or not the patient has donated all or part of that patient's own body as an anatomical gift either by will or in a manner permitted by § 2713 of Title 16 and the person, institution or organization to which such gift has been made.

Section 48. Amend § 4715, Title 31 of the Delaware as follows:

§ 4715. Public records and public meetings.

(d) A land bank shall be required to maintain a publicly-available website, which shall set forth the inventory required in § 4709(d) of this title.

Section 49. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application; and, to that end, the provisions of this Act are declared to be severable.

Approved July 17, 2017